

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,) CASE NO. 8:08CR287
)
Plaintiff,)
)
vs.)
)
DARNELL JACKSON,)
)
Defendant.)

MEMORANDUM
AND ORDER

This matter is before the Court on the Report and Recommendation (Filing No. 23) issued by Magistrate Judge F.A. Gossett recommending denial of the Defendant's motion to suppress (Filing No. 16). No objections have been filed to the Report and Recommendation as allowed by 28 U.S.C. § 636(b)(1)(C) and NECrimR 57.3(a).

The Defendant seeks an order suppressing a firearm seized on May 31, 2008, that resulted in the filing of the Indictment charging the Defendant with being a felon in possession of a firearm and forfeiture of the firearm. Judge Gossett issued oral findings of fact and conclusions of law, concluding that the Defendant lacks standing to contest the seizure of the gun.

Notwithstanding the absence of objections, pursuant to 28 U.S.C. § 636(b)(1)(C) and NECrimR 57.3, the Court has conducted a de novo review of the record. The Court has read the parties' briefs (Filing Nos. 16, 19) and the transcript (Filing No. 25). The Court notes that defense counsel conceded that the firearm was found in a public place. (Filing No. 25, at 4.) The Court agrees that the Defendant has failed to meet his burden of proving that he has standing to contest the seizure of the firearm. *United States v. Pierson*, 219 F.3d 803, 806 (8th Cir. 2000). Because Judge Gossett fully, carefully, and correctly applied the law to the facts, the Court adopts the Report and Recommendation in its entirety.

IT IS ORDERED:

1. The Magistrate Judge's Report and Recommendation (Filing No. 23) is adopted in its entirety; and
2. The Defendant's motion to suppress (Filing No. 16) is denied.

DATED this 3rd day of November, 2008.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge